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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

AMERICAN GENERAL FINANCIAL
SERVICES INC and AMERICAN
GENERAL FINANCIAL SERVICES INC
dba AMERICAN GENERAL FINANCIAL
SERVICES (DE) INC

NO. C-07-298-08-SC02

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE, IMPOSE
FINE, ORDER RESTITUTION, AND COLLECT
INVESTIGATION FEE

Respondents.

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. American General Financial Services Inc (AGFS) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on March 20, 2001, and has continued to be licensed to date. Respondent AGFS is licensed to conduct the business of a consumer lender at forty-two (42) different locations.

1 B. American General Financial Services Inc dba American General Financial Services
2 (DE) Inc (AGFS-DE) was licensed by the Department to conduct business as a Consumer Loan
3 Company on March 20, 2001, and has continued to be licensed to date. Respondent AGFS-DE is
4 licensed to conduct the business of a consumer lender at seven (7) locations.

5 C. Respondents are both wholly owned subsidiaries of American International Group, Inc.

6 **1.2 Report of Examination.** From June 12, 2006 through June 29, 2006, the Department conducted
7 an examination of the books and records of Respondent AGFS and AGFS-DE for the period of
8 December 1, 2003 through March 31, 2006. The Department reviewed 474 loan files as part of the
9 examination and found the violations as outlined in the paragraphs below.

10 **1.3 Unlicensed DBA.** Between at least December 1, 2003 and March 31, 2006, Respondent
11 AGFS used the unlicensed name of American General Home Equity in its branch locations. The name
12 American General Home Equity also appeared as the funding lender on all of Respondent AGFS's
13 first lien mortgages. To date, the Department has not issued a license to any person or entity to
14 conduct the business of a consumer lender under this name.

15 **1.4 Interest Rates in Excess of the Statutory Maximum.** In over seventy (70) loans involving
16 Washington consumers, which originated at out-of-state branches and closed between March 31, 2005
17 and April 18, 2006, Respondent AGFS-DE charged interest in excess of twenty-five (25) percent.

18 **1.5 Untimely Provision of Truth in Lending Disclosures or Disclosure of APR and**
19 **Prepayment Penalty.** In at least eighty (80) loans, Respondents did not maintain records sufficient to
20 establish that truth in lending (TIL) disclosures or the APR or prepayment penalty were disclosed to
21 borrowers within three days of the borrowers' loan application or Respondents did not provide TIL
22 disclosures or disclose the APR or prepayment penalty within three days of the borrowers' loan
23 disclosures or disclose the APR or prepayment penalty within three days of the borrowers' loan
24 disclosures or disclose the APR or prepayment penalty within three days of the borrowers' loan
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1 application. Most of these loans in question were either first and second closed-end refinance
2 mortgages or first and second lien purchases or refinance open-end mortgages.

3 **1.6 Misrepresented Loan Fees as Discount Points.** Respondents miscategorized or
4 misrepresented loan origination fees as discount points on the HUD1/1A Settlement Statement or
5 equivalent in at least twenty-three (23) loans.

6 **1.7 Untimely Disclosure of Costs and Fees.** In at least six (6) loans, Respondent AGFS did not
7 maintain records sufficient to establish that Good Faith Estimate (GFE) disclosures or an itemization
8 and explanation of all costs and fees were provided to borrowers or Respondent AGFS did not provide
9 GFE disclosures or an itemization and explanation of all costs and fees that borrowers were required to
10 pay in connection with obtaining a residential mortgage loan or home equity line of credit (HELOC),
11 within three days of receipt of a loan application.

12 **1.8 Collecting Fees in Excess of the Maximum Amount Allowed.** In at least six (6) loans
13 Respondent AGFS-DE charged loan origination fees in excess of statutory maximum allowed.

14 **1.9 Unable to Provide Records.** Respondents were directed to provide numerous loan files for
15 review. Respondents were unable to produce loan files or complete loan files for at least eight (8)
16 loans. Respondents were unable to produce complete loan records for an additional for (4) loan files
17 when subpoenaed for these records on December 12, 2007

18 **1.10 Inaccurate Truth in Lending Disclosures.** In at least five (5) loans, Respondent AGFS either
19 understated the finance charge by more than \$100 or understated the APR by more than 1/4th of a
20 percentage point in TIL disclosures provided to consumers.

21 **1.11 Failure to Provide Affiliated Business Disclosures.** Respondent AGFS did not provide or
22 did not maintain mandatory affiliated business disclosures that explained the relationship between
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American General Financial Services, Inc. and American General Home Equity in the loan files referenced in paragraph 1.3 above.

1.12 Untimely Provision of Adverse Action Notifications. In at least seven (7) loan application files, Respondent AGFS did not provide consumers' Adverse Action Notifications within thirty (30) days from the date Respondent AGFS received a completed application.

1.13 Failure to Provide Notice of Right to Rescind. In at least three (3) loan files, Respondent AGFS either did not provide a Notice of Right to Rescind to the borrower or the Notice of Right to Rescind was missing from the loan file or was incomplete.

1.14 On-Going Investigation. The Department's investigation into the alleged violations of the Act by Respondents continues to date.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Unlicensed Activity. Based on the Factual Allegations set forth in Section I above, Respondent AGFS is in apparent violation of RCW 31.04.035, WAC 208-620-210(2) recodified as WAC 208-620-420 (effective 1/27/2006) for transacting the business of a consumer lender under a name other than the name on Respondents' licenses.

2.2 Interest Rate in Excess of Maximum Allowed. Based on the Factual Allegations set forth in Section I above, Respondent AGFS-DE is in apparent violation of RCW 31.04.105(1) for lending money at a rate that exceeds twenty-five (25) percent per annum.

2.3 GFE and TIL Disclosures. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.04.027(6) and (10) and RCW 31.04.102(1) through (3) for failure to provide required GFE and TIL disclosures within three business days of receiving a loan application.

1 **2.4 Misrepresentation of Loan Origination Fees:** Based on the Factual Allegations set forth in
2 Section I above, Respondents are in apparent violation of RCW 31.04.027(6) and (10) for
3 miscategorizing or misrepresenting loan origination fees as discount points on the HUD1/1A
4 Settlement Statement.

5 **2.5 Collecting Loan Origination Fees in Excess of Amount Allowed.** Based on the Factual
6 Allegations set forth in Section I above, Respondent AGFS-DE is in apparent violation of RCW
7 31.04.105(2) for charging loan origination fees in excess of four percent of the first twenty thousand
8 dollars of the principal amount of the loan and two percent thereafter.

9 **2.6 Record Keeping.** Based on the Factual Allegations set forth in Section I above, Respondents
10 are in apparent violation of RCW 31.04.155 for failing to maintain certain records to enable the
11 Director to determine whether the licensee is complying with the Consumer Loan Act. In the
12 alternative, Respondents are in apparent violation of RCW 31.04.145 for failure to comply with the
13 Director's investigatory authority by failure to fully and completely comply with the Department's
14 Directives.

15 **2.7 Inaccurate TIL Disclosures.** Based on the Factual Allegations set forth in Section I above,
16 Respondent AGFS is in apparent violation of RCW 31.04.027(6) and (10) and RCW 31.04.102(1)
17 through (3) for failure to provide accurate TIL disclosures to consumers.

18 **2.8 Disclosures Other than GFE and TIL.** Based on the Factual Allegations set forth in Section
19 I above, Respondent AGFS is in apparent violation of RCW 31.04.027(6) and (10) for failure to
20 provide an accurate or complete Notice of Right to Rescind or failure to provide a Notice of Right to
21 Rescind, Adverse Action Notification or Affiliated Business disclosures to consumers.

22 **2.9 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above,
23 Respondents are in apparent violation of RCW 31.04.027(1) and (2) for directly or indirectly
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1 employing any scheme, device or artifice to defraud or mislead any borrower or any person or
2 engaging in any unfair or deceptive practice toward any person.

3 **III. AUTHORITY TO IMPOSE SANCTIONS**

4 **3.1 Authority to Revoke License:** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may
5 revoke a license if a licensee fails to pay any fee due the state of Washington, or fails to comply with
6 any specific order or demand of the Director lawfully made and directed to the licensee in accordance
7 with the Act, or violates any provision of the Act or any rule adopted under the Act either knowingly
8 or without exercise of due care.

9 **3.2 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4), the Director may impose fines of
10 up to one hundred dollars per day upon the licensee, its employee, or any other person subject to the
11 Act for any violation of the Act or failure to comply with any order or subpoena issued by the Director
12 under the Act.

13 **3.4 Authority to Issue Orders to Pay Restitution:** Pursuant to RCW 31.04.093(5), the Director
14 may issue an order directing a licensee, its employee, or any other person subject to the Act to make
15 restitution to a borrower or other person who is damaged as a result of a violation of the Act.

16 **3.5 Authority to Charge Examination Fee and Investigation Fee:** Pursuant to RCW
17 31.04.145(3) and WAC 208-620-590, every licensee examined or investigated by the Director or the
18 Director's designee shall pay for the cost of the examination or investigation, calculated at the rate of
19 sixty-nine dollars and one cent (\$69.01) per staff hour devoted to the examination or investigation, and
20 shall pay travel costs if the licensee maintains its records outside the state
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22 **IV. NOTICE OF INTENTION TO ENTER ORDER**

23 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as
24 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions
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1 constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW 31.04.205.

2 Therefore, it is the Director's intention to ORDER that:

- 3 4.1 Respondent AGFS and Respondent AGFS-DE licenses to conduct the business of a
4 Consumer Loan Company be revoked;
- 5 4.2 Respondents AGFS and AGFS-DE jointly and severally pay a fine of \$500,000 for the
6 violations set forth above,
- 7 4.3 Respondent AGFS-DE recalculate the interest rate on all loans referred to in paragraph 1.4,
8 including those which have since been paid off, to bring the interest rates into compliance
9 with the Act. Respondent shall either refund the amount owed by applying it to the remaining
10 principal balance of the loan and/or refund the excess to the borrowers.
- 11 4.4 Respondent AGFS-DE provide a list of loans to the Department of all loans closed between
12 March 31, 2006 to present with interest rates in excess of twenty-five (25) percent and provide
13 proof to the Department that Respondent has recalculated the interest rate so that it is in
14 compliance with the Act and that Respondent has either refunded the amount owed to the
15 borrower by applying it to the remaining principal balance of the loan and/or refunding the
16 excess to the borrowers.
- 17 4.5 Respondents AGFS and AGFS-DE jointly and severally refund to borrowers all fees that
18 inured to Respondents' benefits on the HUD 1/1A settlement Statement or equivalent on all
19 loans referred to in paragraphs 1.5 and 1.6 above.
- 20 4.6 Respondent AGFS refund to borrowers all fees that inured to Respondent's benefits on the
21 HUD 1/1A settlement Statement or equivalent on all loans referred to in paragraphs 1.7 and
22 1.10 above.
- 23 4.7 Respondent AGFS-DE refund to borrowers all fees that inured to Respondent's benefits on
24 the HUD 1/1A settlement Statement or equivalent on all loans referred to in paragraph 1.8
25 above.
- 4.8 Respondents AGFS and AGFS-DE jointly and severally pay an investigation fee in the
amount of \$14,492.10 calculated at \$69.01 per hour for two hundred and ten (210) staff hours
devoted to the investigation;
- 4.9 Respondents AGFS and AGFS-DE maintain records in compliance with the Act and provide
the Director with the location of the books, records, and other information relating to
Respondent AGFS and Respondent AGFS-DE consumer loan company business, and the
name, address, and telephone number of the individual responsible for maintenance of such
records in compliance with the Act.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Order Restitution, and Collect Examination and Investigation Fee (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 1st day of May, 2008.




DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


MARNIE SHEERAN
Financial Legal Examiner

Approved by:


JAMES R. BRUSSELBACK
Enforcement Chief